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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,540	12/31/2003	Richard F. Gladney	SSB004IUSP	5566
23413 7590 06/09/2011 CANTOR COLBURN LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER CONLEY, FREDRICK C				
ART UNIT 3673		PAPER NUMBER		
NOTIFICATION DATE 06/09/2011		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

# Office Action Summary

**Application No.**

10/750,540

**Applicant(s)**

GLADNEY, RICHARD F.

**Examiner**

FREDRICK CONLEY

**Art Unit**

3673

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Specification***

The amendment filed 3/25/11 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: wherein the innercore is disposed on the strip of adhesive disposed on the portion of the top surface of the bottom panel, such that the bottom surface of the innercore and the top surface of the bottom panel are attached only along the strip of adhesive, and a remaining portion of the bottom surface of the innercore is unattached to the top surface of the bottom panel.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

Claims 14-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter as stated above which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-27 are rejected under 35 U.S.C. 103(a) as obvious over. U.S. Pub. No. 5,065,485 to Zocco.

Claims 14 and 16, Zocco discloses a mattress comprising  
a substantially rigid bottom panel/platform (10) consisting of foam;  
a perimeter sidewall (1) joined to the bottom panel, said bottom panel and  
perimeter sidewall defining an interior cavity; and  
an innercore having a bottom surface 3 disposed within the cavity,  
wherein said portion of the bottom surface of the bottom surface of the innercore  
is joined to the bottom panel by an adhesive wherein the adhesive applied in a region  
proximate to the perimeter of the side wall (col. 3-4 lines 64-68 & 1-2). Zocco is silent to  
a remaining portion capable of being substantially in contact with the bottom surface yet  
unattached to the bottom panel. It is considered an obvious modification to merely  
select a portion of the bottom panel that does not have adhesive and it would have been  
obvious for one having ordinary skill in the art at the time of the invention to merely  
apply adhesive along an interior periphery of the inside surface of the filling material  
yielding predictable results that provide a select region of attachment around the

perimeter. The equivalency of glue and a strip of adhesive has been well established and it would have been obvious for one having ordinary skill in the art at the time of the invention to employ a strip of adhesive yielding predictable results to provide an equivalent means of adhering the inside surface of the filling material.

Claims 15 and 24, wherein the inner core is a fabric-encased spring coil (4,5).

Claim 17, wherein the platform comprises a plurality of layers (fig. 1).

Claim 18, wherein the mattress is a two sided mattress, with the platform capable of forming a second sleeping surface.

Claims 19 and 22, Zocco discloses all of the Applicant's claimed limitations except for the platform comprises a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD. It is considered an obvious modification to select from a plethora of known materials with densities and firmness within a range of values and it would have been obvious for one having ordinary skill in the art at the time of the invention to select the foam with the density and firmness as stated above in order to provide suitable support for the user.

Claim 20, further comprising an upholstery layer 101 dispensed over a top surface of the innercore.

Claim 21, wherein the perimeter sidewall is made of foam (col. 3 lines 50-52).

Claim 23, wherein the bottom panel forms a substantially rigid base platform that comprises a layer made of foam and providing support to the innercore (col. 3 lines 56-63).

Claim 25, wherein the innercore comprising a block of resilient foam 3 (col. 3 lines 63-66).

Claim 26, wherein the perimeter sidewall is attached to a peripheral region of a major surface of the bottom panel by an adhesive (col. 3 lines 53-55).

Claim 27, wherein the perimeter sidewall comprises a plurality of sidewall sections (1a,1b).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,065,485 to Zocco in view of U.S. Pat. No. 6,263,533 to Dimitry et al.

Claim 28, Zocco discloses the Applicant's claim limitations except for a wire. Dimitry discloses border wires (24,26). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a wire as taught by Dimitry in order to create a frame about the upper and lower edges of the inner spring (col. 3 lines 34-37).

***Response to Arguments***

Applicant's arguments filed 3/25/11 have been fully considered but they are not persuasive. As previously state, Zocco explicitly recites that "the first layer of filling material (3) may be glued to the inside surface of the bottom panel (10)". Zocco does not disclose any other member of the mattress being glued to the bottom panel (10)(col. 3-4 lines 64-68 & 1-2). Zocco states that the perimeter side wall members (1a,1b) are only glued together, and does not disclose adhering the side wall members to the bottom panel as mischaracterized by the Applicant. Therefore Zocco meets the Applicant's claim language "wherein said portion of the bottom surface of the bottom surface of the innercore is joined to the bottom panel by an adhesive wherein the adhesive applied in a select region proximate to the perimeter of the side wall. Furthermore, the Applicant's own disclosure establishes the equivalency of glue and a strip of adhesive (paragraph 19). One having ordinary skill in the art would not have found it novel to merely substitute an equivalent means of adhering the inside surface of the bottom panel. With regards to a remaining portion underneath the bottom panel being substantially in contact with the bottom surface yet unattached by at least an adhesive to the bottom panel. PRINCIPLES OF LAW "Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007). "If a person of ordinary skill can implement a predictable variation, § 103 likely

bars its patentability." *Id.* at 1740. One having ordinary skill in the art would not have found it novel to merely apply adhesive along an interior periphery of the inside surface of the filling material.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK CONLEY whose telephone number is (571)272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PETER CUOMO can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FREDRICK C CONLEY/  
Primary Examiner, Art Unit 3673